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10/738,437

12/17/2003

Daniel G. Wolfe

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21552

7590

04/01/2005

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EXAMINER

POPE, DARYL C

ART UNIT

PAPER NUMBER

2632

DATE MAILED: 04/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/738,437

Applicant(s)

WOLFE ET AL.

Examiner

DARYL C POPE

Art Unit

2632

U

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-66 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-66 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 12/17/03.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 61 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
3. Claim 61 recites the limitation "the voice menu system" in lines 1-2. There is insufficient antecedent basis for this limitation in the claim.

### ***Double Patenting***

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 1-66 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-66 of copending Application No. 10/636,348('348). Although the conflicting claims are not identical, they are not patentably distinct from each other because of the following:

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- Claims 1-66 recites essentially the same subject matter as that of claims 1-62 of ('437) since it would have been obvious to include at least one sensor in the controller, since the controller would have been monitoring a property and therefore would have required some form of sensor in order to monitor.

As well, since it would have been obvious to incorporate a GPS device into the tracking device since this would have allowed accurate tracking of the system.

As well, since it would have been obvious that voice menu system would have constituted an adequate voice module that would have recoded and played messages.

As well, since it would have been obvious to utilize any of a varied frequency band means.

As well since it would have been obvious that the commands would have been programmable to include alarm triggering of any other command as deemed necessary by the user of the system.

As well since it would have been obvious to include any type of sensor as desired that would have provided the most optimal monitoring by the system.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

**ART REJECTION:**

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**5. Claims 1-17,19-33,35-46,48-55, and 57-66 are rejected under 35 U.S.C. 103(a) as being unpatentable over Delmonaco(6,052,052).**

-- In considering **claim 1**, the claimed subject matter that is met by Delmonaco includes:

- 1) the controller is met by the controller(50);
- 2) the transceiver in electronic communication with the controller is met by the standard transceiver(52) in electronic communication with controller(50) as seen in figure 1;
- 3) the at least one sensor is met by the sensors(31-36,54,60,67,69);
- 4) the communications interface in electronic communication with the controller and transceiver and configured to provide audible information that may be transmitted to a user is met by the microphones(60,69) which are in electronic communication with the controller(50) and the transceiver(52) via the controller as seen in figure 1, and provide audible information to security/monitoring personnel(see: column 4, lines 43-52).

**- Delmonaco does not show:**

- 1) the user transceiver.

Although not specifically shown, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate a user transceiver into the system of Delmonaco, since the personnel would have required a means that would have enabled intercommunication with the transceiver(52), and therefore,

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implementation of a transceiver for the personnel would have alleviated the necessity of a separate transmitter and receiver.

-- **Claim 2** recites subject matter that is met as discussed in claim 1 above, as well as:

1) the device being configured to execute programming commands received from the user transceiver is met since the controller(50) is configured to accept command codes to be executed from the personnel(see: column 4, lines 43-54).

-- **Claim 3** recites subject matter that is met as discussed in claim 1 above, as well as:

1) the communications interface comprising a voice menu system is met by the microphone(60) in conjunction with the audio storage(56) which allows messages to be stored in digital electronic form(see: column 4, lines 25-34).

-- In consider **claims 4-9**, the examiner takes Official Notice that in the alarm communications art, use of DTMF detectors, voice synthesizers, and voice recognition system including internal microphones for receiving, interpreting and execution of system commands is well known, and therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate any of these above stated devices into the voice menu system of Delmonaco, since this would have facilitated implementation of commands by the personnel, since the personnel already desires to send coded commands to the controller(see: column 4, lines 43-44).

As well, all other claimed subject matter is met as discussed in claim 3 above.

-- **Claim 10** recites subject matter that is met as discussed in claim 1 above, as well as:

1) the memory is met by the audio storage(56).

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-- In considering **claim 11**, although not shown by Delmonaco, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate a real-time clock into the system, since the system of Delmonaco deals with monitoring and alarm signal reporting that would have required an accurate measuring of time in order to properly monitor and report events that would have been detected. Therefore, implementation of a real-time clock would have ensured that the most accurate time possible would have been at the disposal of the system.

As well, all other claimed subject matter is met as discussed in claim 1 above.

-- **Claims 12-13** recite subject matter that is met as discussed in claim 1 above, as well as:

1) the microphone to gather sounds proximate the monitoring device and the camera to view the area proximate the monitoring device are met by the microphone(69) and camera(67, column 4, lines 47-52).

-- **Claim 14** recites subject matter that is met as discussed in claim 1 above, as well as:

1) the video sensor is met by the one or more video sensors(67, column 4, lines6-7).

-- **Claim 15** recites subject matter that is met as discussed in claim 1 above, as well as:

1) the display module is met by the display(68, column 4, lines 7-10).

-- **Claim 16** recites subject matter that is met as discussed in claim 1 above, as well as:

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1) the low battery sensor is met by the controller(50) which monitors the supply voltage condition(see: column 4, lines 20-21);

2) the primary battery is met by the DC batteries(63);

3) the secondary batter is met by the solar panels(61).

-- **Claim 17** recites subject matter that is met as discussed in claim 1 above, as well as:

1) the RF transmitter is met by the transceiver(52).

-- **Claim 19** recites subject matter that is met as discussed in claim 1 above, as well as:

1) the receptor that allows the monitoring device to communicate with an external security device is met by the speaker(58), microphone button(66) and microphone(60) which allow communication between the device of Delmonaco and a police or fire department(see: column 7, lines 55 et seq; column 8, lines 1-18).

-- **Claim 20** recites subject matter that is met as discussed in claim 1 above, as well as:

1) the speaker that plays audible sounds received from the transceiver and allows a user to transmit audible sounds is met by the speaker(58) which allows intercommunication with an emergency department(see: column 7, lines 55 et seq; column 8, lines 1-18).

-- **Claims 21-23** recite subject matter that is met as discussed in claim 1 above, as well as:



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1) the alarm system comprising a siren and lights configured to illuminate the area proximate the monitoring device are met by the alert lights and siren(65, column 4, lines 60 et seq).

-- **Claim 24** recites subject matter that is met as discussed in claim 1 above, as well as:

1) the information storage unit is met by the audio storage(56).

-- **Claim 25** recites subject matter that is met as discussed in claim 1 above, as well as:

1) the interrupt controller is met by the power switch(8).

-- **Claim 26** recites subject matter that is met as discussed in claim 1 above, as well as:

1) the key press interface is met by the arm/disarm key activated switch(15).

-- **Claim 27** recites subject matter that is met as discussed in claim 1 above, as well as:

1) the sound generator is met by speaker(58).

-- **Claims 28 and 36** recite subject matter that is met as discussed in claims 1-3 above.

-- In consider **claims 29-31**, the examiner takes Official Notice that in the alarm communications art, use of DTMF detectors, voice synthesizers, and voice recognition system including internal microphones for receiving, interpreting and execution of system commands is well known, and therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate any of these above stated devices into the voice menu system of Delmonaco, since this would have

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facilitated implementation of commands by the personnel, since the personnel already desires to send coded commands to the controller(see: column 4, lines 43-44).

As well, all other claimed subject matter is met as discussed in claim 3 above.

-- **Claim 32** recites subject matter that is met as discussed in claim 28 above, as well as:

1) the memory is met by the audio storage(56).

-- In considering **claim 33**, although not shown by Delmonaco, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate a real-time clock into the system, since the system of Delmonaco deals with monitoring and alarm signal reporting that would have required an accurate measuring of time in order to properly monitor and report events that would have been detected. Therefore, implementation of a real-time clock would have ensured that the most accurate time possible would have been at the disposal of the system.

As well, all other claimed subject matter is met as discussed in claim 28 above.

-- **Claim 35** recites subject matter that is met as discussed in claim 28 above, as well as:

1) the low battery sensor is met by the controller(50) which monitors the supply voltage condition(see: column 4, lines 20-21);

2) the primary battery is met by the DC batteries(63);

3) the secondary batter is met by the solar panels(61).

-- **Claim 37** recites subject matter that is met as discussed in claim 28, as well as:

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1) the alarm system comprising lights configured to illuminate the area proximate the monitoring device are met by the alert lights and siren(65, column 4, lines 60 et seq).

-- **Claim 38** recites subject matter that is met as discussed in claim 28 above, as well as:

1) the speaker is met speaker(58).

-- **Claims 39-40** recite subject matter that is met as discussed in claim 28 above, as well as:

1) the microphone to gather sounds proximate the monitoring device and the camera to view the area proximate the monitoring device are met by the microphone(69) and camera(67, column 4, lines 47-52).

-- **Claim 41** recites subject matter that is met as discussed in claim 28 above, as well as:

1) the device configured to send confirmation to the user transceiver confirming that the programming command has been properly executed is met by the status request which supplies the armed, unarmed, and battery status to the personnel(see: column 4, lines 52-54).

-- **Claim 42** recites subject matter that is met as discussed in claim 28 above, as well as:

1) the information storage unit, camera, and microphone, wherein the storage unit is configured to store information gathered by the microphone is met by the audio storage(56), video sensors(67), and microphone(60, column 4, lines 27-34).

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-- **Claims 43-45** recite subject matter that is met as discussed in claim 28 above, as well as:

1) the interrupt controller, key press interface, and sound generator are met by the power switch(8), arm/disarm key activated switch(15), and speaker(58).

-- **Claim 46** recites a method that is met with reference to the discussion of the apparatus of claim 1 above, as well as:

1) the monitoring a condition of the property, contacting the user transceiver upon detection of a change in condition, and providing information related to the property to the user by the transceiver is met(see: column 4, lines 1-42).

-- **Claim 48** recites subject matter that is met as discussed in claim 48 above, as well as:

1) the executing a programming command received from the user is met by the controller executing a command received from the personnel via transceiver(52)(see: column 4, lines 43-54).

-- **Claim 49** recites subject matter that is met as discussed in claim 48 above, as well as:

1) the confirmation to the user transceiver to confirm that the programming command has been executed is met by the status request supplying armed, unarmed, and battery status to the user(see: column 4, lines 52-54).

-- **Claims 50-52, and 54-55**, recite subject matter that is met as discussed in claim 48 above, as well as:

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10 the programming command to activate or deactivate a sensor, alarm, microphone, and camera, and a command to reset the device is met by the personnel sending commands to arm and disarm and activation of the microphone and/or camera(see: column 4, lines 43-52).

-- In considering **claim 53**, the examiner takes Official Notice that in the alarm art, implementation of commands to a system controller which specified timed activation and deactivation of devices in the system is well known. Therefore, since Delmonaco already allows commands that control activation/deactivation of various sensors and interfaces in the system, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate a command for specified timed activation/deactivation of the device, since this would have allowed the system to conserve energy when not in use.

As well, all other claimed subject matter is met as discussed in claim 48 above.

-- In considering **claim 57**, it would have been obvious that the personnel would have reviewed the information provided to the user transceiver, since the purpose of the personnel of Delmonaco would have been monitoring conditions detected by the alarm system.

As well, all other claimed subject matter is met as discussed in claim 46 above.

-- **Claim 58** recites subject matter that is met as discussed in claim 46 above, as well as:

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1) the communications interface comprising a voice menu system is met by the microphone(60) in conjunction with the audio storage(56) which allows messages to be stored in digital electronic form(see: column 4, lines 25-34).

-- **Claim 59** recites a method that is met as discussed with reference to the apparatus of claim 1 above, as well as:

1) the contacting the programmable mobile device with user transceiver, establishing communication between the user transceiver and the monitoring device, and using the user transceiver to issue a programming command that may be executed by the monitoring device is met(see: column 4, lines 1-42).

-- **Claim 60** recites subject matter that is met as discussed in claim 59 above, as well as:

1) the sending a confirmation to the user transceiver to confirm the programming command has been executed is met by the status request supplying armed, unarmed, and battery status to the user(see: column 4, lines 52-54).

-- **Claim 61** recites subject matter that is met as discussed in claim 59 above, as well as:

1) the using the voice menu system to provide audible information to the user transceiver after a communication has been established is met by the message pertaining to the location of a tripped zone or event being communicated to the personnel(see: column 4, lines 25-42).

-- **Claim 62** recites subject matter that is met as discussed in claim 59 above, as well as:

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1) the claimed at least one input device, and the information storage unit for storing information gather by the sensor and at least one input device is met by the microphone(60) which constitutes the sensor and input device, which allows messages to be stored in the audio storage(56).

-- **Claim 63** recites subject matter that is met as discussed in claim 59 above, as well as:

.1) the sound generator is met by speaker(58).

-- In considering **claim 64**, although use of a key pad for the transceiver is not specifically taught by Delmonaco, use of a key pad interface for the transceiver(52) is implied based on buttons on the face of the transceiver(52) as seen in figure 1. The examiner takes Official Notice that in the alarm communication art, use of a key pad interface for a transceiver is well known in the art(i.e. cellular telephone) and therefore since Delmonaco implies use of a key pad interface for the transceiver as seen in figure 1, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate a key pad into the transceiver(52) for the purpose of interfacing with the controller, thereby alleviating the necessity for a separate key pad interface.

As well, all other claimed subject matter is met as discussed in claim 59 above.

-- In considering **claims 65-66**, it would have been obvious that an internal RF sensor would have been included in the transceiver(52) since this would have been necessary in order for the transceiver(52) to transmit and receive signals via RF antenna(13).

As well, all other claimed subject matter is met as discussed in claim 59 above.

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**6. Claims 18,34,47, and 56 are rejected under 35 U.S.C. 103(a) as being unpatentable over Delmonaco in view of Teckchandani et al(6,816,090).**

-- **Claims 18,34, and 47**, recite subject matter that is met by Delmonaco as discussed in claims 1,28, and 46 above, except for:

1) the GPS device(which as well constitutes the claimed tracking device of claim 34), and the step of activating the tracking transmitter to facilitate locating the monitoring device

Use of monitoring systems which track location of monitoring devices and as well utilize GPS as the tracking device is well known in the art. In related art, Teckchandani et al(Teckchandani) discloses a mobile asset monitoring system which includes a monitoring device which further includes a GPS receiver(229) for providing location information, and as well, a wireless communication device which transmits tracking information to a user pertaining to the location of the monitoring device(see: column 8, lines 9-20).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the GPS receiver and as well commands for providing tracking information of Teckchandani into the transceiver(52) of Delmonaco, since the device of Delmonaco is also a portable system and therefore upon occurrence of movement of the system, the GPS receiver would have allowed location of the system to be transmitted via the transceiver(52) to the monitoring personnel.

-- In considering **claim 56**, although not specifically shown by Delmonaco, use of password protection for mobile asset monitoring systems is well known in the art. In



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related art, Teckchandani discloses use of an authentication password before a user is allowed access to a system(see: column 7, lines 5-13).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the password verification step of Teckchandani into the system of Delmonaco, since this would have ensured that only authorized personnel would have been able to access and alter the system thereby providing a further safeguard for the system.

As well, all other claimed subject matter is met as discussed in claim 46 above.

### ***Conclusion***

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to DARYL C POPE whose telephone number is (571) 272-2959. The examiner can normally be reached on M-TH 8:00-6:30.

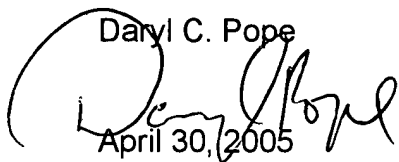
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, DANIEL WU can be reached on (571) 272-2964. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Daryl C. Pope  
  
April 30, 2005

DARYL C POPE  
Primary Examiner  
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